

House File 2409 - Introduced

HOUSE FILE 2409
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HSB 616)

A BILL FOR

1 An Act relating to various recreation and conservation
2 activities under the purview of the department of natural
3 resources, providing for repeals, and making penalties
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 461A.35, Code 2011, is amended to read
2 as follows:

3 **461A.35 Prohibited destructive acts.**

4 1. It shall be unlawful for any person to use, enjoy
5 the privileges of, destroy, injure, or deface plant life,
6 trees, buildings, or other natural or material property, or
7 to construct or operate for private or commercial purposes
8 any structure, or to remove any plant life, trees, buildings,
9 sand, gravel, ice, earth, stone, wood, or other natural
10 material, or to operate vehicles, within the boundaries of
11 any state park, preserve, or stream or any other lands or
12 waters under the jurisdiction of the commission for any purpose
13 whatsoever, except upon the terms, conditions, limitations, and
14 restrictions as set forth by the commission.

15 2. A person who violates this section commits a simple
16 misdemeanor, punishable as a scheduled violation pursuant to
17 section 805.8B, subsection 6, paragraph "c".

18 Sec. 2. Section 461A.42, subsection 2, Code 2011, is amended
19 to read as follows:

20 2. The use of fireworks, as defined in section 727.2, in
21 state parks and preserves is prohibited except as authorized
22 by a permit issued by the department. The commission shall
23 establish, by rule adopted pursuant to chapter 17A, a fireworks
24 permit system which authorizes the issuance of a limited number
25 of permits to qualified persons to use or display fireworks in
26 selected state parks and preserves.

27 3. A person violating this subsection section is guilty of a
28 simple misdemeanor punishable as a scheduled violation pursuant
29 to section 805.8B, subsection 6, paragraph "c". In addition
30 to any other penalties, the punishment imposed for a violation
31 of this subsection shall include assessment of a fine of not
32 less than two hundred fifty dollars. The court shall order
33 restitution if any damages were caused by the violation which
34 may include, but is not limited to, community service.

35 Sec. 3. Section 461A.57, Code 2011, is amended to read as

1 follows:

2 **461A.57 Penalties.**

3 Any person violating any of the provisions of sections
4 ~~461A.35~~ 461A.36 to 461A.41, 461A.43, and 461A.45 to 461A.56 is
5 guilty of a simple misdemeanor.

6 Sec. 4. Section 481A.1, subsection 7, Code 2011, is amended
7 to read as follows:

8 7. "*Bait*" includes, but is not limited to, minnows, green
9 sunfish, orange-spotted sunfish, gizzard shad, frogs, crayfish,
10 and salamanders, and mussels.

11 Sec. 5. Section 481A.6A, subsection 1, Code 2011, is amended
12 to read as follows:

13 1. As used in this section, "*pen-reared pheasant*" means a
14 Chinese ring-necked pheasant (*Phasianus colchicus torquatus*)
15 which originates from a captive population and which has
16 been propagated and held by a hatchery. For the purposes of
17 this section "*pen-reared pheasant*" does not include a Reeves
18 (*Syrmaticus reevesii*) or Lady Amherst (*Chrysolophus amherstiae*)
19 pheasant, a subspecies of the Chinese ring-necked pheasant
20 such as a Japanese (*Phasianus versicolor*) or a Black-necked (*P.*
21 *colchicus colchicus*) pheasant, or a melanistic mutant (black,
22 white, or other color mix) of the Chinese ring-necked pheasant.

23 Sec. 6. NEW SECTION. 481A.17 Target shooting sports
24 program.

25 The department shall establish a target shooting sports
26 program to promote recreational target shooting sports. The
27 purposes of the program shall be to introduce more Iowans
28 to target shooting sports, promote existing target shooting
29 programs, provide more target shooting facilities, and improve
30 existing target shooting facilities. The commission may adopt
31 rules to achieve these purposes.

32 Sec. 7. Section 481A.131, Code 2011, is amended to read as
33 follows:

34 **481A.131 Judgment — execution.**

35 1. In each case of conviction of unlawfully taking,

1 catching, killing, injuring, destroying, or having in
2 possession any fish, game, or fur-bearing animal, the court
3 shall enter a judgment in favor of the state of Iowa for
4 liquidated damages in an amount as provided in section
5 481A.130, ~~and it shall be the duty of the commission and~~
6 ~~the prosecuting attorney or attorney general, to collect the~~
7 ~~liquidated damages by execution or otherwise.~~ If two or more
8 persons who have acted together are convicted of the unlawful
9 taking, catching, killing, injuring, destroying, or having
10 possession of any fish, game, or fur-bearing animal, the
11 judgment shall be entered against them jointly.

12 2. Any liquidated damages ~~received~~ assessed under this
13 section and section 481A.130 shall be ~~remitted~~ paid to the
14 clerk of court. The clerk of court shall remit the damages
15 paid to the treasurer of state who department of natural
16 resources. The department of natural resources shall credit
17 such damages to the state fish and game protection fund.

18 3. The return of any uninjured fish, game, or fur-bearing
19 animal which has been unlawfully taken, caught, or possessed,
20 to the place where taken or caught or to any other place
21 approved by the commission, shall constitute the discharge of
22 any liquidated damages provided under section 481A.130.

23 4. Civil suits for the collection of judgments may be
24 prosecuted by the attorney general or by county attorneys.

25 Sec. 8. Section 481A.142, subsection 5, paragraph a, Code
26 2011, is amended to read as follows:

27 a. Sell bait, including minnows, and frogs, ~~and clams,~~
28 propagated or raised within the licensed unit without having
29 to obtain a bait dealer's license. However, aquaculture units
30 wishing to take bait from areas other than their licensed units
31 must also obtain a bait dealer's license.

32 Sec. 9. Section 481A.144, subsection 1, Code 2011, is
33 amended to read as follows:

34 1. A person shall not sell minnows, frogs, crayfish, or
35 salamanders, ~~and mussels~~ for fish bait without first obtaining

1 a bait dealer's license from the department upon payment
2 of the license fee. A licensee shall comply with all laws
3 pertaining to taking, possessing, and selling of bait handled
4 by the licensee. If convicted of violating a provision of this
5 chapter or a rule adopted pursuant to this chapter, a licensee
6 shall forfeit the licensee's bait dealer license upon demand of
7 the director.

8 Sec. 10. Section 482.2, subsections 3, 7, 10, and 11, Code
9 2011, are amended to read as follows:

10 3. "*Commercial fisher*" means a person who is licensed by
11 the state to take, attempt to take, possess, transport, sell,
12 barter, or trade ~~turtles or turtle eggs~~, commercial fish except
13 roe species, or fish parts except roe. A commercial fisher may
14 take, possess, or transport turtles or turtle eggs, or sell,
15 barter, or trade turtles or turtle eggs to a commercial turtle
16 buyer.

17 7. "*Commercial roe harvester*" means a person who is licensed
18 by the state to engage in the harvest and sale, barter, or
19 trade of roe and roe species to a commercial roe buyer.

20 10. "*Commercial turtle harvester*" means a person who is
21 licensed by the state to take, attempt to take, possess, or
22 transport commercial turtles or turtle eggs, and sell, barter,
23 or trade commercial turtles or turtle eggs to a commercial
24 turtle buyer.

25 11. "*Commercial turtle harvesting*" means taking, attempting
26 to take, possessing, or transporting of commercial turtles or
27 turtle eggs for the purpose of selling, bartering, trading,
28 offering, or exposing for sale commercial turtles or turtle
29 eggs to a commercial turtle buyer.

30 Sec. 11. Section 482.4, subsection 3, Code 2011, is amended
31 to read as follows:

32 3. Commercial fishers and commercial turtle harvesters
33 shall ~~purchase gear tags from the commission to be affixed~~
34 provide and affix weather-resistant gear tags to each piece
35 of gear in use. ~~Notwithstanding the fee rates for gear tags~~

1 ~~under subsection 6, the minimum fee is five dollars. All~~
2 ~~tags are valid for ten years from the date of issue. In~~
3 ~~addition to the gear tags, all gear shall be tagged with a~~ Each
4 weather-resistant gear tag showing shall plainly show the name
5 and, address, and commercial license number of the licensee and
6 whether the gear is fish or turtle gear.

7 Sec. 12. Section 482.4, subsection 4, Code 2011, is amended
8 by striking the subsection.

9 Sec. 13. Section 482.4, subsection 6, Code 2011, is amended
10 by striking the subsection and inserting in lieu thereof the
11 following:

12 6. Commercial fish and turtle gear tags are required on the
13 following units of commercial gear:

- 14 a. Seine.
- 15 b. Trammel net.
- 16 c. Gill net.
- 17 d. Entrapment nets.
- 18 e. Commercial trotline.
- 19 f. Commercial turtle trap.

20 Sec. 14. Section 482.4, subsection 7, Code 2011, is amended
21 by striking the subsection.

22 Sec. 15. Section 482.11, subsection 1, paragraph a, Code
23 2011, is amended to read as follows:

24 a. A commercial turtle harvester license is required
25 to operate commercial gear and to take, attempt to take,
26 possess, or transport commercial turtles or turtle eggs, or
27 sell, barter, or trade commercial turtles or turtle eggs to
28 a commercial turtle buyer. Nonresident commercial turtle
29 harvesters shall harvest commercial turtles only from the
30 boundary waters.

31 Sec. 16. Section 482.14, subsection 3, Code 2011, is amended
32 to read as follows:

33 3. Commercial turtle harvesters shall utilize a dated
34 receipt with at least two parts, with one original and one
35 copy of each receipt, that contains the species, number, and

1 pounds of turtles sold, bartered, or traded. Commercial turtle
2 harvesters shall retain a copy of each receipt for five years
3 following the transaction. A purchaser of commercial turtles
4 shall retain a copy of the receipt for as long as the purchaser
5 is in possession of the turtles.

6 Sec. 17. Section 483A.1, subsection 2, paragraph s, Code
7 2011, is amended by striking the paragraph.

8 Sec. 18. Section 805.8B, subsection 6, paragraph c, Code
9 2011, is amended to read as follows:

10 c. For violations of ~~section~~ sections 461A.35, 461A.42, and
11 461A.44, the scheduled fine is fifty dollars.

12 Sec. 19. REPEAL. Chapter 568, Code and Code Supplement
13 2011, is repealed.

14 EXPLANATION

15 This bill relates to various recreation and conservation
16 activities under the purview of the department of natural
17 resources, provides for repeals, and makes penalties
18 applicable.

19 Code section 461A.35 is amended to provide that a person who
20 commits certain destructive acts on state parks, preserves,
21 or other lands or waters under the control of the natural
22 resource commission commits a simple misdemeanor, punishable
23 as a scheduled violation with a fine of \$50 pursuant to Code
24 section 805.8B(6)(c). Currently, such an offense is punishable
25 as a simple misdemeanor.

26 Code section 461A.42(2) is amended to provide that a
27 person who violates prohibitions against the use of firearms,
28 explosives, weapons, and fireworks in state parks and
29 preserves commits a simple misdemeanor, punishable as a
30 scheduled violation with a fine of \$50 pursuant to Code
31 section 805.8B(6)(c). Currently, a violation of the weapon and
32 firearms prohibitions is punishable as a simple misdemeanor.
33 A violation of the fireworks prohibition is punishable
34 as a simple misdemeanor with a minimum fine of \$250 and a
35 requirement of restitution if any damages were caused by the

1 violation, which may include but is not limited to community
2 service.

3 Code section 461A.57 is amended to coordinate with the
4 changes to 461A.35 and 461A.42.

5 Code section 481A.1(7) is amended to remove mussels from the
6 definition of bait.

7 Code section 481A.6A(1) is amended to specify that a
8 "pen-reared pheasant" that can be obtained by owners or tenants
9 of land from a hatchery and raised or released on that person's
10 land includes only a Chinese ring-necked pheasant and does not
11 include other specified types of pheasants.

12 New Code section 481A.17 authorizes the department to
13 establish a target shooting sports program to promote
14 recreational target shooting sports and to adopt rules to
15 achieve the specified purposes of the program.

16 Code section 481A.131 is amended to remove a requirement
17 that the natural resource commission and the prosecuting
18 attorney or attorney general collect liquidated damages
19 collectible upon a conviction of unlawful taking, catching,
20 killing, injuring, destroying, or possessing fish, game, or
21 fur-bearing animals. Instead, any liquidated damages assessed
22 shall be paid to the clerk of court and remitted to the
23 department of natural resources and credited to the state fish
24 and game protection fund.

25 Code section 481A.142 is amended to provide that a holder of
26 an aquaculture unit license cannot sell clams as bait.

27 Code section 481A.144 is amended to provide that a licensed
28 bait dealer cannot sell mussels for fish bait.

29 Code section 482.2 is amended to provide that a licensed
30 commercial fisher is allowed to sell, barter, or trade turtles
31 or turtle eggs to a commercial turtle buyer, a licensed
32 commercial roe harvester is allowed to sell, barter, or trade
33 roe and roe species to a commercial roe buyer, and a licensed
34 commercial turtle harvester is allowed to sell, barter, or
35 trade commercial turtles or turtle eggs to a commercial turtle

1 buyer.

2 Code section 482.4(3) is amended to require commercial
3 fishers and commercial turtle harvesters to provide and
4 affix weather-resistant gear tags to each piece of gear in
5 use instead of purchasing the tags from the natural resource
6 commission. Each gear tag must plainly show the name, address,
7 and commercial license number of the licensee and whether the
8 gear is fish or turtle gear.

9 Code section 482.4(4) providing that all numbered fish gear
10 tags are interchangeable among the different types of gear is
11 stricken.

12 Code section 482.4(6) and (7) are amended to delete fees for
13 gear tags required on the specified units of commercial gear.

14 Code section 482.11(1)(a) is amended to provide that a
15 commercial turtle harvester licensee can sell, barter, or trade
16 commercial turtles or turtle eggs to a commercial turtle buyer.

17 Code section 483A.1(2)(s) providing for the sale of a
18 falconry license to nonresidents is stricken.

19 Code chapter 568, which authorizes the sale of certain
20 islands and abandoned river channels, is repealed.